

STATE OF WASHINGTON

MIKE KREIDLER
STATE INSURANCE COMMISSIONER



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OFFICE OF
INSURANCE COMMISSIONER

In the Matter of

MUTUAL OF OMAHA INSURANCE
COMPANY,

An Authorized Insurer.

No. D06-173

**CONSENT ORDER
IMPOSING A FINE**

To: MUTUAL OF OMAHA INSURANCE COMPANY
Dodge at 33rd Street
Omaha, NE 68131

Comes Now the Insurance Commissioner of the State of Washington, pursuant to the authority set forth in RCW 48.02.080 and RCW 48.05.185, and having reviewed the official records and files of the Office of the Insurance Commissioner, enters the following consent order:

FINDINGS OF FACT:

1. Mutual of Omaha Insurance Company (Mutual of Omaha), New York Life Insurance Company (New York Life), and the Travelers Insurance Company (Travelers), are life and disability carriers licensed to do business in the state of Washington. Knights of Columbus is a fraternal benefit society, licensed under RCW Chapter 48.36A.
2. The Office of the Insurance Commissioner (OIC) conducted a review of these companies' loss ratio filings in May 2005.
3. RCW 48.20.025(5) requires that each disability carrier issuing or renewing individual health benefit plans in Washington state must file the supporting documentation of the plans' actual aggregate loss ratio for the preceding calendar year by May 31 of each year. RCW 48.36A.230 and RCW 48.36A.370(e)(5) exempt fraternal benefit societies from most laws governing insurance companies, including the requirement to file loss ratios.
4. Mutual of Omaha has contracted to administer closed block individual health plans issued by New York Life, Travelers, and Knights of Columbus. Mutual of Omaha administers these plans; it has not acquired the business or re-issued contracts to enrollees from these three companies.
5. Between 1999 and 2005, Mutual of Omaha filed loss ratios which aggregated its own loss ratios with the loss ratios experienced by the New York Life Insurance Company, Travelers Insurance Company, and Knights of Columbus plans under Mutual of Omaha administration. In order to comply with RCW 48.20.025(5), Mutual of Omaha, New York Life Insurance Company, and Travelers Insurance Company should have filed their loss ratio filings separately and under each company's name.

6. RCW 48.20.025(6) requires that if the previous calendar year actual loss ratio is below 72%, carriers to submit a remittance (calculated according to a statutory formula), plus 5% interest to the Washington State Health Insurance Pool (WSHIP).
7. Mutual of Omaha did not pay remittances for itself or for Travelers or New York Life between 1999 and 2004.
8. At the request of the Office of the Insurance Commissioner, on June 7, 2005 Mutual of Omaha re-filed separate loss ratios for Mutual of Omaha, New York Life and Travelers. The corrected filings indicate that some of the calendar year loss ratios were less than 72%, and that the following remittances were owed to WSHIP:

New York Life Insurance Company

For 1999 Calendar year Loss Ratio Filing: \$10,394 plus interest;
For 2000 Calendar year Loss Ratio Filing: \$12,222 plus interest;
For 2001 Calendar year Loss Ratio Filing: \$ 7,382 plus interest;
For 2002 Calendar year Loss Ratio Filing: \$ 2,791 plus interest;
For 2003 Calendar year Loss Ratio Filing: \$ 3,073 plus interest;
For 2004 Calendar year Loss Ratio Filing: \$ 2,001 plus interest;

The Travelers Insurance Company

For 2002 Calendar year Loss Ratio Filing: \$6,151 plus interest;
For 2003 Calendar year Loss Ratio Filing: \$6,893 plus interest.

9. Mutual of Omaha paid the remittances and interest owed by Travelers and New York Life, in the amount of \$61,715.00, to WSHIP on September 16, 2005.
10. Because of the exemptions created in RCW 48.36A.230 and RCW 48.36A.370(e)(5), Knights of Columbus is not required to file loss ratios. Furthermore, Knights of Columbus is not liable to pay remittances to the Washington State Health Insurance Pool (WSHIP) even if its loss ratios fall below the statutory threshold.

CONCLUSIONS OF LAW:

1. RCW 48.05.185 authorizes the Insurance Commissioner to impose a fine in lieu of the suspension or revocation of a company's license.
2. Mutual of Omaha violated RCW 48.20.025(5) by adding loss ratios from New York Life and Travelers business to its own loss ratio filings.
3. By not timely filing loss ratios with the OIC, Mutual of Omaha caused Travelers and New York Life to violate RCW 48.20.025(5).
4. By not submitting remittances along with 5% interest to WSHIP when the previous calendar year actual loss ratios were below 72%, Mutual of Omaha caused Travelers, and New York Life to violate RCW 48.20.025(6).
5. Because Mutual of Omaha has accepted full responsibility for violations associated with the business it administered on behalf of New York Life and Travelers, the OIC will not take any enforcement or other adverse action against New York Life or Travelers related to these violations.

6. Knights of Columbus is exempt from the requirements to file loss ratios and pay remittances because of RCW 48.36A.230 and RCW 48.36A.370(e)(5). Knights of Columbus's conduct regarding loss ratio filings has not violated Washington law.

CONSENT TO ORDER:

Mutual of Omaha Insurance Company wishes to resolve this matter without further administrative or judicial proceedings against itself or against Travelers or New York Life. Mutual of Omaha hereby consents to the entry of this order and acknowledges its duty to comply with the applicable laws and regulations of the State of Washington.

By agreement of the parties, the OIC will impose a fine of \$63,000.00 upon the Mutual of Omaha. Mutual of Omaha Insurance Company will pay \$63,000.00 within thirty (30) days of the entry of this Order.

Pursuant to RCW 48.05.185, failure to pay the fine timely shall constitute grounds for the revocation of the Mutual of Omaha's certificate of authority, in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

EXECUTED this 8th day of June, 2006 by:

MUTUAL OF OMAHA INSURANCE COMPANY

Signed Name: Fred Kottmann

Printed Name: Fred Kottmann

Printed Title: First Vice President

ORDER

NOW, THEREFORE, pursuant to the foregoing, Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

Pursuant to RCW 48.05.185, the Insurance Commissioner hereby imposes a fine of \$63,000.00 upon Mutual of Omaha. Mutual of Omaha Insurance Company will pay the fine within thirty (30) days of the entry of this Order. Failure to do so will constitute grounds for the suspension or revocation of the certificate of authority held by the insurer in the State of Washington. It will also result in a civil lawsuit brought by the Attorney General on behalf of the Insurance Commissioner.

Entered at Tumwater, Washington, this 12 day of June, 2006.

MIKE KREIDLER
Insurance Commissioner

By: Katherine A. White
Katherine A. White
Legal Affairs Division